

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6742**

**BILL NUMBER:** SB 221

**NOTE PREPARED:** Mar 26, 2009

**BILL AMENDED:** Mar 23, 2009

**SUBJECT:** Confined Animal Feeding.

**FIRST AUTHOR:** Sen. Gard

**FIRST SPONSOR:** Rep. Pearson

**BILL STATUS:** As Passed House

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Definitions.* This bill amends the definitions of "applicant" and "responsible party" for purposes of confined feeding statutes. It amends the definition of "confined feeding operation" (CFO) to be consistent with the federal definition of "concentrated animal feeding operation" (CAFO) and eliminates separate CFO and CAFO references. The bill makes the confined feeding control statute part of the defined term "environmental management laws".

*Construction Approval.* The bill eliminates the exception from the requirement for Department of Environmental Management (IDEM) construction approval for a CAFO that obtains an NPDES permit.

*Disclosure Requirements and Other Administrative Duties.* The bill establishes good character disclosure requirements for CFOs, applicable to both new construction and certain expansions. It provides that disclosure of acts and omissions in violation of foreign law applies only if the acts and omissions would have violated state or federal environmental law if the act or omission had occurred in the United States. The bill provides that disclosure requirements do not apply to a renewal of an IDEM approval and apply only if alleged acts and omissions subject to disclosure presented a substantial endangerment to human health or the environment. The bill allows IDEM to review and act on disclosed good character information. The bill applies good character disclosure requirements to pending confined feeding projects.

*Notification of Land Owners and Occupants.* The bill requires an applicant for the construction or expansion of a confined feeding operation to inform land owners and occupants whose land is within ½ mile of the operation within 10 days of submitting the application.

**Effective Date:** Upon passage; July 1, 2009.

**Explanation of State Expenditures:** *Disclosure Requirements and Other Administrative Duties.* A person and a responsible party must submit to IDEM a disclosure statement and certain additional information. IDEM may investigate and verify the information provided. Based on findings, the commissioner may deny the application. IDEM should be able to cover any additional expenses associated with these provisions given its existing level of resources.

For FY 2008, IDEM reverted over \$5.9 M in state General Fund revenues. Total reversions for all funds equaled \$14.4 M.

*Penalty:* The bill provides that disclosure statements are subject to the penalty for perjury, a Class D felony. A Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately 10 months. However, any additional expenditures are likely to be small.

**Explanation of State Revenues:** *Penalty:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. The bill also provides that a person who hauls manure in violation of the provisions of the bill commits a Class C infraction. The maximum judgment for a Class C infraction is \$500, which would be deposited in the state General Fund. However, any additional revenues would likely be small.

**Explanation of Local Expenditures:** Counties would receive notice from applicants. This provision should not have a fiscal impact.

*Penalty:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

**Explanation of Local Revenues:** *Penalty:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from court fees. However, any additional revenue is likely to be small.

**State Agencies Affected:** IDEM; DOC.

**Local Agencies Affected:** Counties, schools, municipalities; trial courts, and local law enforcement agencies.

**Information Sources:** IDEM, State Budget Agency.

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